

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE COVIDIEN PLC SECURITIES  
LITIGATION

CASE NO. 1:14-CV-12949-LTS

**LEAD PLAINTIFF’S UNOPPOSED MOTION PURSUANT TO FED. R. CIV. P. 6(b)  
FOR EXTENSION OF TIME TO FILE REPLY TO FORTHCOMING OBJECTION TO  
SETTLEMENT**

Lead Plaintiff Rosenfeld Family Foundation (“Lead Plaintiff”), supported by plaintiffs in the consolidated action, Joseph Lipovich and Richard Taxman (collectively, with Lead Plaintiff, “Plaintiffs”), on behalf of itself and the Class,<sup>1</sup> by and through its undersigned counsel, submits this Motion Pursuant to Fed. R. Civ. P. 6(b) for an Extension of Time to file a Reply to the Forthcoming Objection to Settlement by purported class member Winona A. Crist. In support of the motion, Lead Plaintiff states as follows.

**MEMORANDUM IN SUPPORT OF MOTION**

1. Lead Plaintiff has moved for final approval of the Settlement, as set forth in the Stipulation of Settlement dated May 15, 2015 (the “Stipulation”) and as preliminarily approved by this Court on May 19, 2015 (the “Motion for Final Approval”).

2. On May 28, 2015, the Court endorsed the Lead Plaintiff’s Proposed Order to Continue Settlement Hearing and Amend Related Dates, continuing the Settlement Hearing

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<sup>1</sup> Unless otherwise defined, capitalized terms herein have the same meanings attributed to them in the Stipulation of Settlement and Release, attached as Exhibit 1 to the Declaration of Mark A. Delaney in Support of Plaintiffs’ Unopposed Motion for Preliminary Approval of Settlement (Dkt. No. 42) (the “Stipulation”). The Class stipulated to by the Parties and preliminarily certified by the Court is defined as any and all persons and entities who held shares of Covidien common stock, either of record or beneficially, at any time between June 14, 2014 (the date the Covidien Board of Directors approved the Transaction) and January 26, 2015 (the date of the consummation of the Transaction), including any and all of their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under any of them, other than the Defendants, their subsidiary companies, affiliates, assigns, and members of their immediate families, as the case may be.

previously scheduled for July 29, 2015 to September 21, 2015 (ECF No. 47). Therein, the Court set the following deadlines:

- (i) Plaintiffs shall file their papers in support of final approval of the Settlement and any Fee Application no later than August 31, 2015;
- (ii) Covidien or its successor(s) shall file appropriate affidavits of proof of mailing of the Notice no later than September 4, 2015;
- (iii) Objections to the Settlement or Fee Application shall be filed and served no later than September 11, 2015;
- (iv) Plaintiffs shall file their reply papers in support of the Settlement and Fee Application no later than September 14, 2015.

3. Lead Plaintiff filed its Motion for Final Approval with the Court on August 31, 2015 (ECF No. 48).

4. Covidien filed the Affidavit of Jose C. Fraga Regarding the Mailing of the Notice of Pendency of Class Action, Proposed Settlement of Class Action and Settlement Hearing on September 4, 2015 (ECF No. 51).

5. On September 8, 2015, counsel for Winona Crist (the “Objector”), a purported former stockholder of Covidien and a putative member of the Settlement Class, filed appearances in this action (*see* ECF No. 52-53), as well as a Notice of Intention to Appear as Objector (ECF No. 54). In her Notice of Intention to Appear as Objector, Objector indicated that, by the objection deadline of September 11, 2015, she intends to submit a written detailed statement of her Objections; the grounds for such objections; the reasons she desires to appear and be heard, through her counsel; written proof of ownership of Covidien shares during the class period; a statement certifying that the objector is a member of the class; and the name, address, email address, and telephone number of the Objector and her counsel.

6. Lead Plaintiff's reply papers in response to any objection are currently due to be filed no later than September 14, 2015.

7. Under Rule 6 of the Federal Rules of Civil Procedure, "[w]hen an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires . . . ." Fed. R. Civ. P. 6(b)(1)(A).

8. By the present motion, Lead Plaintiff seeks to a two (2) day extension of the deadline for responding to the forthcoming objection by Objector, to and including Wednesday, September 16, 2015.

9. Good cause exists for the Court to grant Lead Plaintiff's instant request.

10. Upon the Objector's filing of notice, Lead Plaintiff recognized that, due to an oversight at the time the parties made their Joint Motion to Continue Settlement Hearing and Amend Related Deadlines (ECF No. 45), Lead Plaintiff's reply deadline is scheduled to fall during the upcoming Rosh Hashanah holiday.

11. Further, Plaintiff anticipates an objection consisting of broad and complex legal issues that will require extensive review and research to properly address in its reply papers.

12. Counsel for Lead Plaintiff has contacted counsel for each appearing party in this matter, including Objector, and none oppose the instant request for a brief extension of time.

13. Further, Lead Plaintiff's request does not affect the September 21, 2015 Settlement Hearing date.

14. This is the first extension of time that Plaintiff has sought in this matter.

15. These reasons are further set forth in the attached Affidavit of Jason M. Leviton.

## CONCLUSION

For the foregoing reasons, Lead Plaintiff respectfully requests that this Motion Pursuant to Fed. R. Civ. P. 6(b) for Extension of Time to File Reply to Forthcoming Objection to Settlement be granted.

Respectfully submitted,

Dated: September 10, 2015

**BLOCK AND LEVITON, LLP**

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**CERTIFICATE PURSUANT TO LOCAL RULE 7.1**

The undersigned counsel hereby certifies that on Thursday, September 10, 2015, counsel for the movant has conferred with all parties or non-parties who may be affected by the relief sought in this motion in a good faith effort to resolve the issues and each has agreed to not oppose the instant motion.

/s/ Jason M. Leviton

Jason M. Leviton

**CERTIFICATE OF SERVICE**

I hereby certify that this motion, filed through the CM/ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

Dated: September 10, 2015

/s/ Jason M. Leviton

Jason M. Leviton